IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.685 OF 2000

Raosaheb Ganpatrao Patil. ... Appellant.
Versus.
Govardhan Subrao Patil & ors. ... Respondents.

Shri Nitin Jamdar for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 27th January, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Appellant. The appeal is by unsuccessful Plaintiff. The dispute is about the suit well situated on the land bearing Gat No.115. The case of the Appellant, which is negatived by both the Courts below, is that the Appellant/Plaintiff is the exclusive owner of the suit well.

2. The Appellate Court considered the oral and documentary evidence. The Appellate Court found that in the year 1977 the Appellant and the Respondent applied for electricity connection to install an electric motor for drawing water from the suit well. On evidence, the learned Judge found that if the Respondent has no right in respect of the well, the Appellant would not have consented for installation of the electric motor on the said well by the Respondent in the year 1978. In view

of the material on record the Appellate Court held that the Appellant is not the exclusive owner of the well. The Appellate Court has also noted that during the pendency of the Appeal, an application for amendment of the plaint was made in which a contention was sought to be raised that the Appellant is the owner of the suit well to the extent of one-half share. The Appellate Court noted that though the application for amendment was allowed, the amendment was not carried out.

3. In this view of the matter, no substantial question of law arises. The findings of both the Courts below are based on evidence on record. The Second Appeal is dismissed with no order as to costs.

Judge.